

NO. 22677

IN THE INTERMEDIATE COURT OF APPEALS  
OF THE STATE OF HAWAI'I

JAMES LINCOLN VLIET, Petitioner-Appellant, v.  
STATE OF HAWAI'I, Respondent-Appellant

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT  
(S.P.P. No. 91-0003  
(Cr. No. 89-0564))

SUMMARY DISPOSITION ORDER

(By: Burns, C.J., Watanabe, and Lim, JJ.)

Petitioner-Appellant James Lincoln Vliet (Vliet) appeals from the Circuit Court of the First Circuit's July 8, 1999 Findings and Order Denying [Vliet's] Petition for Post-Conviction Relief. We affirm.

Vliet's sole argument on appeal is that he was deprived of his constitutional right to the effective assistance of counsel because his trial counsel unilaterally waived Vliet's right to conduct a jury poll, without informing Vliet of that right or first consulting with Vliet. Vliet's argument appears to be premised on this court's majority opinion in State v. Miyashita, slip op. (App. No. 16862, Oct. 9, 1996). However, said opinion was reversed and depublished by the Hawai'i Supreme

Court on March 7, 1997. Accordingly, Vliet's argument has no merit.

Affirmed.

DATED: Honolulu, Hawai'i, April 27, 2001.

On the briefs:

Jon N. Ikenaga,  
Deputy Public Defender,  
State of Hawai'i, for  
petitioner-appellant.

Caroline M. Mee,  
Deputy Prosecuting Attorney,  
City and County of Honolulu,  
for respondent-appellee.